

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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AFP ADVANCED FOOD PRODUCTS LLC,

Plaintiff,

ORDER

CV 11-0708 (JS)(ARL)

-against-

WEGO CHEMICAL AND MINERAL CORP.,

Defendant.

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LINDSAY, Magistrate Judge:

Before the court is the defendant's letter application dated August 22, 2011, seeking to compel the plaintiff to provide more complete responses to the defendant's interrogatories, to expand the number of interrogatories permitted pursuant to Fed. R. Civ. P. 33 (a)(1), to compel the plaintiff to state whether the alleged adulterated product at issue is still available and to extend the time for discovery. The plaintiff has responded by letter dated August 29, 2011. Also, before the court is the plaintiff's motion seeking to compel the defendant to respond to its interrogatories.¹ The defendant has not respond to that application.

On March 16, 2011, the defendant served the plaintiff with ninety six interrogatories, with hundred of discrete sub-parts. After the plaintiff objected to the number, the defendant withdrew twenty-eight questions. Although counsel for the defendant insisted that the remaining requests were proper, the plaintiff, nonetheless, answered the first twenty-five interrogatories pursuant to Fed. R. Civ. P. 33(a)(1). The defendant contends that an expanded number of interrogatories is proper in this case because it must ascertain (1) what was done the adulterated product, (2) whether it was mixed with other chemicals, (3) who complained, and (4) whether and how testing was done. The plaintiff contends that the interrogatories are not narrowly drafted and the information being sought can be obtained more efficiently through depositions. The court agrees. The defendant should first seek to obtain information through depositions. After the depositions are complete, and if the discovery deadline has not passed, the defendant may then seek leave to serve additional interrogatories that have been narrowly drafted to obtain any missing information.

With respect to the request to compel the plaintiff to state whether the alleged adulterated product at issue is still available, the plaintiff has already indicated that the product is still in its possession.

The plaintiff's motion to compel the defendant to respond to its demand for

¹Initially, the plaintiff also sought to compel document requests, but that portion of the motion was withdrawn by letter dated August 31, 2011.

interrogatories is granted, as unopposed. The defendant should respond by September 30, 2011.

At the request of both parties, the deadline for the completion of all discovery, inclusive of expert discovery, is extended to December 23, 2011. Any party planning on making a dispositive motion shall take the first step in the motion process by January 13, 2012. The final conference scheduled for December 19, 2011 is adjourned to January 27, 2012 at 11:00 a.m. The parties are directed to electronically file the proposed joint pretrial order prior to the final conference.

Dated: Central Islip, New York
September 8, 2011

SO ORDERED:

/s/
ARLENE ROSARIO LINDSAY
United States Magistrate Judge